

REMARKS

This amendment is in response to the Examiner's Office Action dated March 21, 2006. Reconsideration of this application is respectfully requested in view of the foregoing amendment and the remarks that follow.

On pages 2-3 of the rejection the Examiner states that the presented arguments in the Amendment/RCE filed 01/12/06 are not persuasive and disagrees with the Applicant's arguments that "Thompson et al. does not disclose any mechanism comparable to analyzing the likelihood of an increase in sales or analyzing a likelihood of an increase of any other quantity." The Examiner states he disagrees because "any temporary or substitute worker provided by a service provided generates an increase in sales" and that "a temporary or substitute worker is an opportunity for an increase in sales." The Applicant respectfully requests that the Examiner reread the required elements in the claim. Specifically, the claim requires "analyzing said event to determine whether said event is likely to generate an increase in sales." The *event* is analyzed and it is determined if the event will generate the increase in sales, not the service provider or the workers provided by the service provider. Since the "temporary or substitute workers" as noted by the Examiners are the not the event, and are not equivalent to an "unexpected period of activity," Applicant respectfully disagrees with the Examiner, and believes that the claims are in allowance.

Please note also that with respect to the arguments below, claims 29 and 55 have been amended for clarification purposes only, and no new matter has been added.

STATUS OF CLAIMS

Claims 1-27 are cancelled.

Claims 28-55 are pending.

Claims 29-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claims 28-55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 6,675,151 (Thompson et al.).

Claims 37-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 6,675,151 (Thompson et al.) as applied to claim 28, and further in view of “Locked in Your Car? You Can Choose Who Helps You In And Out Of Your Jam” (English).

OVERVIEW OF CLAIMED INVENTION

The presently claimed invention provides for a computer-based system and a method for identifying and enhancing sales opportunities occurring as the result of unexpected periods of inactivity (e.g., based on an unexpected change in a schedule or services). After a window of opportunity is identified, the event is analyzed (using a distribution channel analyzer) to determine whether the event is likely to generate an increase in sales. This information is then used by service providers to act quickly in order to enhance sales. For instance, based on some history data, an event is dropped if the identified event did not produce enough sales at previous times. If the likelihood of producing more sales is high enough, appropriate sales channels are then searched to select a service provider (using an event matcher). An event notification is sent to the selected service provider matching the requirements needed, and event information is then stored in a database for future event matches.

In the Claims

REJECTIONS UNDER 35 U.S.C. § 112

Claims 29-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

On pages 3-4 the Examiner notes that he assumes the claim will be amended to recite that “the accounting manager actually cooperates with the claimed event matcher.” Claim 29 has been amended for clarification purposes only, and no new matter has been added.

Regarding the Examiner’s statement that “it is not understood who/what performs the accounting functionality,” Applicant requests that the Examiner note that claim 29 is dependent on claim 28 and is part of the computer system claimed in claim 28. Claim 29 adds “an accounting manager” as part of the system and therefore Applicant believes it is clear that the manager, which is part of the computer system of claim 28, performs/provides the accounting functionality.

It is also noted on page 4 by the Examiner that “Use of the word ‘may’ implies that the recited steps are optional....rendering the scope of claim 29 indefinite.” Applicant requests that the Examiner specifically note where the word “may” is used in claim 29 or claim 30. The word “may” is not present in the claim, and, therefore, Applicant believe that both claim 29 (as amended) and claim 30 are definite and therefore the rejection should be removed.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 28-55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 6,675,151 (Thompson et al.), hereafter Thompson.

On page 5 the examiner relates the “event” required in independent claim 28 as the “employee absence” in Thompson. As noted above, claim 28 requires that the event be analyzed “to determine whether said event is likely to generate an increase in sales.” That is, the Examiner correlates the “employee absence” in Thompson as the event that should be analyzed to determine if an increase in sales may be generated. However, the Examiner then introduces the following: “any substitute worker provided by a service provided generates in increase in sales.” The “substitute worker” as referred to by the Examiner is different from the event or “employee absence.” The worker is a person and not the event. The Examiner is thus suggesting that the “employee absence” be analyzed to see if such an absence would generate an increase in sales. Applicant asserts that in Thompson, the “absence” does not generate an increase in sales. Therefore, the Applicant disagrees with the Examiner and believes the claims are allowable.

Moreover, even if the argument that the “substitute worker” could be correlated to the event that is analyzed for an increase in sales, the “substitute worker” would not generate an increase, but rather be a “substitute” or maintain the work that is supposed to be provided. A “substitute worker” can not increase sales and does not correlate to the event as required by the claim. Therefore, the “substitute worker” of Thompson does not read on the present claim and therefore does not provide the required elements.

As noted on pages 9 and 10 in the previous amendment dated 01/12/06, “Thompson relates to labor substitute fulfillment....Thompson et al. does not disclose any mechanism comparable to analyzing the likelihood of an increase in sales. The office action relies upon

column 2, lines 34-48 and/or column 9, lines 37-45 of Thompson et al. in relation to the distribution channel analyzer or the analyzing step of the present invention, when discussing former claims 1, 14, 15 and 27. These passages merely relate to establishing the appropriate qualifications of acceptable substitute workers, and do not relate to analyzing a likelihood of an increase in sales, or indeed to analyzing a likelihood of an increase of any other quantity. Nor is this taught anywhere else in Thompson et al., and neither is there any suggestion that it would be obvious.”

Therefore, noting the previous arguments and the above statements with respect to the event and the “substitute worker,” the claims are allowable.

Similar to claim 28, the other independent claims 42 and 55 are directed to an e-commerce method and to a computer program product respectively, and include the limitation “analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales”. The examiner states on page 10 of the rejection that the “sales opportunity” required in the claims relates to the “temporary employment” of Thompson. The Examiner then continues to provide “a list of criteria for selecting an appropriate substitute 104, flags for special conditions 122” as being similar to the claims requirements of “analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales.” Neither the “temporary employment” nor “list of criteria” nor “flags” of Thompson are sales opportunities, nor are they able to generate an increase in sales. Further, the Examiner’s argument that “providing a substitute/replacement worker results in a “sale” which generates revenue for the service provider” is incorrect.

First, the claim requires that the “sales opportunity” be analyzed; Thompson fails to provide this element. Second, even if the “substitute worker” could be correlated to the event, the worker would not generate an increase in sales. Rather, the “substitute/replacement worker” is a “substitute” and maintains the work/employment that is supposed to be provided. Therefore, the Applicant disagrees with the Examiner. Since claims 42 and 55 require a similar limitation as claim 28, i.e., that the sales opportunity be analyzed and generate an increase in sales, and Thompson does provide the required elements in the claims, claims 42-55 are allowable.

Claims 37-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 6,675,151 (Thompson et al.) as applied to claim 28, and further in view of “Locked in Your Car? You Can Choose Who Helps You In And Out Of Your Jam” (English).

As noted in the amendment dated 01/12/2006, *English* relates to a roadside assistance system, specifically the system known as Onstar, and states in pertinent part that “General Motors of Canada Ltd. Includes roadside assistance for new car buyers, but also now offers an emergency system called Onstar, which makes use of the global positioning satellite system and the cellular network to get help to a driver with problems. Onstar, which you buy as an option and pay a monthly fee to use, can do such things as unlocking your car via a satellite signal, or even summoning aid if you’ve had a crash and are incapacitated.”

English does not supply the deficiency in Thompson in relation to the rejection over Thompson when taken alone, *supra*, and the rejection over Thompson et al. in view of *English* is directed only to dependent claims. Claims 29-41 are dependent on claim 28, which is allowable. Since claim 28 provides the limitation “analyzing said event to determine whether said event is

likely to generate an increase in sales" and neither Thompson nor English nor their combination provides the required elements and limitations, dependent claims 37-41 are also allowable.

Claims 28-55 are therefore allowable over the combination of Thompson et al. with English.

SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicants' presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this amendment has been timely filed within the set period of response, no petition for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 09-0441.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact applicants' representative at the below number.

Respectfully submitted,



Jaclyn Schade
Registration No. 50,569

1725 Duke Street
Suite 650
Alexandria, Virginia 22314
(703) 838-7683
June 21, 2006